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May 15, 2020

Via ECF Filing

Hon. Andrew T. Baxter, U.S.M.J.
United States District Court for the
Northern District of New York
100 South Clinton Street
Syracuse, NY 13261

Re: Naomi Gonzales v. Agway Energy Services, LLC
Civil Action No. 5:18-cv-235 (MAD/ATB)

Dear Judge Baxter:

We represent Defendant Agway Energy Services, LLC (“Agway”). We write with the consent of counsel for Plaintiff Naomi Gonzales (“Plaintiff”) to respectfully request a thirty (30) day extension of the current deadlines for the parties to submit their expert disclosures, to complete discovery, and to move for class certification. Pursuant to Your Honor’s Text Order of February 28, 2020, the current schedule is as follows: Plaintiff’s expert disclosures are due by June 16, 2020, Agway’s expert disclosures are due by August 14, 2020, rebuttal disclosures are due by September 4, 2020, the discovery cutoff is October 5, 2020, and any class certification motion is to be filed by November 5, 2020.

On May 4, 2020, Plaintiff issued a revised deposition notice pursuant to *Fed. R. Civ. P.* 30(b)(6), that requests testimony of a corporate representative(s) on topics pertaining to Agway’s business in Pennsylvania as well as certain spreadsheets produced by Agway in February 2020 and certified as final in April 2020. Plaintiff’s counsel advises that this testimony is necessary in order for her expert to complete his initial expert disclosures, and has requested that the depositions be completed by May 28, 2020.

Agway has identified two (2) witnesses to testify on the topics. One of the witnesses is located in northern New Jersey and the other is located in the suburbs of Syracuse, New York. The witness located near Syracuse is the Agway representative designated to testify as to the almost spreadsheets, as she is the Agway employee primarily responsible for creating and maintaining them.

The COVID-19 pandemic and the restrictions currently in place in New York and New Jersey have caused the parties to be unable to schedule and complete these depositions sufficiently in advance of the due date for Plaintiff’s expert disclosures. Although the deposition notice states

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Plaintiff's intention to conduct the depositions remotely via Zoom Deposition Solutions, Agway is unable to present its witness located near Syracuse via those means. Agway's Syracuse office is closed due to the pandemic, this witness does not have video capabilities at home on her work laptop, and she also fits some of the high-risk categories for COVID-19. Agway's offices located in Whippany, New Jersey are likewise closed. In addition, due to the nature of the documents that are likely to be exhibits at the depositions (including large Excel spreadsheets), conducting the depositions remotely within the current deadlines will be far more difficult than conducting them either in person or without additional time to address the limitations and issues presented by remote depositions.

As a result of the issues discussed above, the parties propose a new schedule as follows: Plaintiff is to submit her expert disclosures by July 16, 2020, Agway is to submit its expert disclosures by September 14, 2020, any rebuttal disclosures are to be submitted by October 5, 2020, discovery is to be completed by November 4, 2020, and any class certification motion is to be filed by December 7, 2020.

Thank you for the Court's consideration of the parties' request.

Respectfully submitted,

/s/ John D. Coyle
John D. Coyle

cc: All Counsel of Record